



TOWN OF EASTHAM

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EASTHAM ZONING BOARD OF APPEALS MEETING MINUTES

Earle Mountain Room
April 1, 2021, 5:00 pm

ZBA members present: Edward Schneiderhan, Gay Craig, Joanne Verlinden, Robert
Bruns, Robert Sheldon (via videoconference)
ZBA members absent: Brian Ridgeway
Staff present: Paul Lagg, Town Planner (via videoconference)

ZBA chair Ed Schneiderhan opened the meeting at 5:00 pm, explained new temporary meeting protocols and stated the meeting was being recorded. Mr. Schneiderhan turned the meeting over to Ms. Verlinden to act as Chair for the remainder of the hearing.

Case No. ZBA2021-4 – 7 West Shore Drive, Map 7A, Parcel 5. Robin Foley (Owner) seeks an appeal pursuant to M.G.L. c. 40A s. 8 of the determination of the Building Commissioner that a Variance is required pursuant to M.G.L. c. 40A s. 10 from Eastham Zoning By-law section 7.2 (setbacks) to construct a deck with new non-conformities to setbacks.

Case No. ZBA2021-5 – 7 West Shore Drive, Map 7A, Parcel 5. Robin Foley (Owner) seeks a Variance pursuant to M.G.L. c. 40A s. 10 from Eastham Zoning By-law section 7.2 (setbacks) to construct a deck with new non-conformities to setbacks.

Seated on both cases: Schneiderhan, Sheldon, Verlinden, Bruns, Craig

Ben Zehnder was present and described how the requested relief was no longer applicable. He asked to withdraw both applications without prejudice. A **MOTION** by Bob Bruns to accept the withdrawal of Case No. ZBA2021-4 and Case No. ZBA2021-5 without prejudice, **seconded** by Joanne Verlinden.

In favor: Schneiderhan, Craig, Bruns, Sheldon, Verlinden

Opposed: None

The VOTE: 5-0

Motion passed – Unanimous

Case No. ZBA2021-3 – 7 West Shore Drive, Map 7A, Parcel 5. Robin Foley (Owner) seeks a Special Permit pursuant to M.G.L. c. 40A s. 6 and Eastham Zoning By-law section 7.1 (lot size), 7.2 (setbacks) and 4.3 (non-conforming uses) to alter pre-existing non-conforming structures on a non-conforming lot.

Seated on this case: Schneiderhan, Sheldon, Verlinden, Bruns, Craig

Ben Zehnder and Robin Foley were present. Mr. Zehnder described the proposal and clarified the location of the shower. Ms. Foley responded to questions regarding the proposed landscaping and the age of the house. Nancy Haley, 5 West Shore Drive was present and commented she was

sure any future nuisance issues could be addressed with the applicant. Mr. Zehnder noted four letters of support for the project had been received.

The board members discussed requested waivers. A **MOTION** by Bob Bruns to approve waiver requests regarding the submittal of floor plans and elevations, construction schedule, and site plan with septic and well location, **seconded** by Joanne Verlinden.

In favor: Schneiderhan, Craig, Bruns, Sheldon, Verlinden

Opposed: None

The VOTE: 5-0

Motion passed – Unanimous

Mr. Bruns read the proposed **findings of fact**:

1. The property is located at 7 West Shore Drive (Map 7A, Parcel 5) and is located in District A (Residential).
2. The applicant has applied for a Special Permit pursuant to M.G.L. c. 40A s. 6 and Eastham Zoning By-law section 7.1 (lot size), 7.2 (setbacks) and 4.3 (non-conforming uses) to alter pre-existing non-conforming structures on a non-conforming lot.
3. The lot size is pre-existing non-conforming at 6,168 sf.
4. The existing structure is non-conforming to the side (south) setback (16 feet where 25 feet is required). The proposed deck extension and stairs will intensify the current non-conforming side (south) setback by 7 feet decreasing the setback from 16 feet to 9 feet.
5. After an evaluation of all the evidence presented, the proposed use will not be substantially more detrimental to the established or future character of the neighborhood or the Town and the structure involved will be in harmony with the general purpose and intent of the Zoning By-law and zoning district. The proposed deck, exterior stairs and outdoor shower are permitted accessory uses within the residential zoning district.
6. The proposal will not have a negative impact on traffic flow and/or safety. No changes to the existing driveway are proposed. No negative issues related to the proposed project were identified.
7. The proposal will not have a negative impact on the visual character of the neighborhood. The visual impact from the street will be minimal. Exterior decks and outdoor showers are common and provide outdoor amenities to numerous properties throughout the town.
8. The proposal does have adequate methods of sewage disposal, sources of potable water and site drainage. Town water is available to the property. No negative issues pertaining to the wastewater utilities were identified.
9. The proposal does provide adequate protection and maintenance of groundwater quality and recharge volume and the water quality of coastal and fresh surface water bodies. Any negative impacts to the adjacent resource areas will be mitigated by the Order of Conditions approved by the Eastham Conservation Commission on 1/26/21.
10. The proposal does provide adequate provision for utilities and other necessary or desirable public services. No issues related to the current or proposed utilities have been identified.
11. The proposal does provide adequate protection from degradation and alteration of the natural environment. The project has been approved by the Eastham Conservation Commission and has an Order of Conditions requiring mitigation of invasive species.

12. Artificial light, noise, litter, odor or other sources of nuisance or inconvenience will be adequately controlled. Conditions controlling exterior lighting will be added to the Special Permit. No other relevant issues were identified.
13. The Board granted waivers for the following application requirements:
 - Existing/proposed building floor plans and elevations
 - Schedule of construction procedures
 - Site plan depicting septic system and well location
14. One abutter appeared in favor of the proposal and four letters were received in favor of the proposal.

A **MOTION** by Joanne Verlinden to approve the findings of fact as stated, **seconded** by Bob Sheldon.

In favor: Schneiderhan, Craig, Bruns, Sheldon, Verlinden

Opposed: None

The VOTE: 5-0

Motion passed – Unanimous

Ms. Verlinden read the **conditions**:

1. No building permit shall be issued until the application complies with all pertinent sections of the Town of Eastham Zoning By-Law.
2. The applicant shall obtain a building permit from the Eastham Building Department prior to the start of construction.
3. The applicant shall verify bedroom count and septic design for adequacy with the approved plan with the Eastham Health Department and if necessary shall obtain Board of Health approval prior to the issue of a building permit.
4. All exterior lighting shall be down shielded to prevent light spill and nuisances to adjacent properties.
5. The applicant is responsible for providing building plans to the Eastham Building and Fire Departments. Plans shall contain information on construction methods and materials sufficient to conduct a full code compliance review.
6. Plan reviews conducted by town staff as part of this site plan approval have been conducted for conformance with applicable sections of the zoning bylaw and for adequacy of the site for public safety access and environmental impacts. Additional plan review for health and safety code compliance will be required and may result in changes to the approved plans. Any changes to the proposed site plan dated 8/25/20 rev. 3/11/21 except those that are de minimis must be reviewed by the Zoning Board. If the Board finds a change to be substantial, re-notice is necessary for a new hearing.
7. The Board reserves the right to monitor the ongoing construction for compliance with the approved plan.
8. There shall be no construction work allowed between June 20 and September 15 of any given year.

A **MOTION** by Joanne Verlinden to approve the conditions as stated, **seconded** by Gay Craig.

In favor: Schneiderhan, Craig, Verlinden, Bruns, Sheldon

Opposed: None

The VOTE: 5-0

Motion passed – Unanimous

A **MOTION** by Joanne Verlinden to **GRANT A SPECIAL PERMIT** for Case No. ZBA2021-3 to alter pre-existing non-conforming structures on a non-conforming lot, **seconded** by Gay Craig.

In favor: Schneiderhan, Craig, Verlinden, Bruns, Sheldon

Opposed: None

The VOTE: 5-0

Motion passed – Unanimous

Minutes

A **MOTION** by Bob Bruns to approve the minutes of March 4, 2021, **seconded** by Joanne Verlinden.

In favor: Schneiderhan, Craig, Verlinden, Bruns, Sheldon

Opposed: None

The VOTE: 5-0

Motion passed – Unanimous

Other business

Mr. Schneiderhan announced Brian Ridgeway was resigning from the Strategic Planning Committee. Mr. Lagg described the committee's amended charge and noted the ZBA would need to appoint a new representative to replace Mr. Ridgeway.

Mr. Lagg introduced the Board to Justin Post, Eastham Building Commissioner.

Adjournment

A **MOTION** by Joanne Verlinden to adjourn the hearing, **seconded** by Bob Bruns.

In favor: Schneiderhan, Craig, Verlinden, Bruns, Sheldon

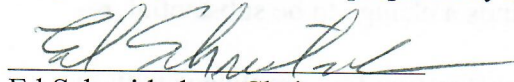
Opposed: None

The VOTE: 5-0

Motion passed – Unanimous

The meeting adjourned at 5:50 pm.

Respectfully submitted as prepared by Debbie Cohen


Ed Schneiderhan, Chairman
Zoning Board of Appeals